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RE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/481,456	01/11/00	HUFF	7907

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THE PROCTER & GAMBLE COMPANY
PATENT DIVISION
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EXAMINER
NEWHOUSE, N

ART UNIT	PAPER NUMBER
3727	4

DATE MAILED: 05/23/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/481,456

Applicant(s)

HUPP, MATTHEW TODD

Examiner

Nathan J. Newhouse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 and 14 is/are allowed.
- 6) ☒ Claim(s) 1-12 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is an inconsistency between the language of the preambles and certain portions of the bodies of the claims, thereby making the scope of the claims indefinite and unclear. In the preamble of independent claims 1 and 4 applicant appears to be claiming only the slider, but certain portions of the claims set forth limitations to the track of the reclosable fastener. Applicant is required to clarify what subject matter the claims are intended to be drawn to, i.e., either the subcombination of the slider alone or the combination of the slider and the reclosable fastener having a track with vectors in the X and Y directions. For the purposes of formulating a rejection on the merits, these claims were considered to be drawn to the subcombination of the slider alone.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 1-2 and 15-17 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Hupp et al.'687.

To the degree that applicant's claims are understood, Hupp et al. teaches a slider 36 for closing a track (bead 32 and groove 34) on a container that has vector components in the X and Y direction.

5. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by the Japanese reference (10-305866).

To the degree that applicant's claims are understood, the Japanese reference teaches a slider (3e) that opens and closes a reclosable fastener that has a track(3c, 3d) with vector components in the X and Y direction.

6. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Ausnit '807.

To the degree that applicant's claims are understood, Ausnit teaches a slider 14 having a base 35 with a first elongate member 30 and a second elongate member 29 extending from the base. A pivot 37 extends from the distal end of the first elongate member towards the second elongate member and a tracking member 36 extends from the distal end of the second elongate member towards the first elongate member. As applicant's claims are considered to be directed to the subcombination of the slider only(see above paragraph #2) the reclosable fastener having a track with vector

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components in the X and Y directions are considered to be intended use and as such set forth no structural limitations to the claims (see MPEP 2111).

Allowable Subject Matter

7. Claims 13-14 are allowed.

8. Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is an examiner's statement of reasons for allowance:

The prior art of record does not teach applicant's slider as set forth having a base with a first elongate member and a second elongate member extending from the base, a pivot extending from the distal end of the first elongate member towards the second elongate member and a tracking member extending from the distal end of the second elongate member towards the first elongate member in combination with a reclosable fastener having a track with components in the X and Y directions(claim 18) or the corresponding method of use(claim 13).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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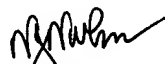
Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Eskandry and Abraham teach similar containers with sliders that are on tracks having X and Y components to what applicant is claiming. Hawley teaches a slide fastener for a container. Buck and Herz teach slide fasteners for bag type containers. Boeckmann et al. teaches a tongue and groove fastener between a container and a lid.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan J. Newhouse whose telephone number is (703)-308-4158. The examiner can normally be reached on Mon-Thur 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (703)-308-1082. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-305-3579 for regular communications and (703)-305-3580 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.


Nathan J. Newhouse
Primary Examiner
Art Unit 3727

May 18, 2001